IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATIONS Nos. 1465 of 1999, 1793 of 1999, 1795 of 1999 and 5139 of 1999.

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MACHINO TEKNO

Versus

CHIEF REVENUE CONTROLLING OFFICER

Appearance:

MS MITA S PANCHAL for Petitioners

MR BH BHAGAT for Respondents

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 04/05/2000

COMMON ORAL JUDGEMENT

Rule. Mr.Bhagat waives the service of Rule on behalf of the respondents.

2. On the request of both the sides all these four

matters have finally been heard today. A common grievance has been raised in all these Special Civil Applications against the orders passed on different dates by the Chief Controlling Revenue Authority for the State of Gujarat, in the matters under the Bombay Stamp Act.

3. The petitioners herein had purchased different parts of the same land at village Thala in the year 1988 through registered sale deed. The properties are situated at Taluka Chikhli, Dist. Navsari at old highway. These lands were then further sold out by the petitioners in the year 1990 through yet another registered sale deed. The Dy.Collector, Stamp Duty Valuation Organisation, then passed the orders directing the petitioners to pay further sums against deficient stamp duty and again requiring the petitioners to deposit deficient amount of the stamp duty. Against such orders passed by the Dy.Collector on 27th February 1993, the appeals were preferred by the petitioners before the Chief Controlling Revenue Authority and in these appeals, the Chief Controlling Revenue Authority has upheld the orders as have been passed by the Dy.Collector on 25th January 1999 (in SCA No. 1465/99), on 28th January 1999 (in SCA Nos.1793/99 & 1795/99) and on 10th May 1999 (in SCA No. 5139/99) respectively. The petitioners are accordingly required to deposit the deficient stamp duty of Rs.16,432/- (in SCA No.1465/99 with regard to document no.15 dated 7th January 1988), Rs.16,513/- (in SCA No.1793/99 with regard to document no. 16/88 dated 7th January 1988), Rs.9,385/(in SCA No. 1795/99 with regard to document no.50/88 dated 10th January 1988) and a sum of Rs.4,921/(in SCA No. 5139/99 with regard to document no. 1176/87 dated 7th December 1987).

4. The only grievance voiced by the petitioners is that subsequently, the same properties were sold out to one Ramanbhai Mohanlal Shah and he was required to pay the deficient stamp duty of Rs.905/- only. Thus, uniform standards have not been applied. However, it is admitted before this Court that the petitioners did not produce any documentary evidence in support of this submission that only meagre amount of Rs.905/- was sought to be recovered from Ramanbhai Mohanlal Shah in respect of the same land as deficient stamp duty. Although it is stated that the submission to this effect had been raised by the petitioners before authorities, learned Counsel for the petitioners has also said that at that time the documents in support of such submission were not available with the petitioners and that these documents became available with the petitioners subsequently and hence the same could not be produced before the appellate authority. It

is submitted that these documents are all genuine documents and these documents are available in the Government records and in case the petitioners are given an opportunity, the xerox copies of the same can be produced for verification from the original documents available in the Government records.

5. In the facts and circumstances of these cases, I find that in the matters of recovery of stamp duty, if the concerned authorities have not applied the uniform standards and the petitioners have any documentary evidence to support their contention, they should not be denied an opportunity to produce such documents to substantiate their claims merely because such documents were not available with them at the earlier point of time more particularly when it can be well appreciated that in normal course such documents could not be in the possession of petitioners. The impugned orders passed by the Chief Controlling Revenue Authority in all these four matters are therefore, set aside and the matters are remanded back to the Chief Controlling Revenue Authority for decision afresh in accordance with law. The appellate authority has the same powers as the original authority and therefore in order to shorten the process of litigation this Court does not find it expedient to remand the matters to the Dy.Collector. The petitioners shall now produce the xerox copies of the documents which are available with them to substantiate their claim for applying uniform standards before the Chief Controlling Revenue Authority latest by 31.5.2000 along with the certified copy of this order and the Chief Controlling Revenue Authority, i.e. the appellate authority, under Section 32(B) shall take into consideration such documents and after due verification of the genuineness of these documents along with any further or other related material which may be available in the record or which may be produced by the department even now to contest the appeals, shall decide the matters de-novo after affording opportunity to both the sides. He may pass appropriate orders supported by reasons in accordance with law within a period of four months from the date the certified copy of this order is produced before him along with the documents. In case the appellate authority still comes to the conclusion that no change is required in the amount of deficient stamp duty, despite the consideration of the materials produced by the parties, the amount as was determined by the Deputy Collector, Stamp Duty Valuation Organisation and the orders dt.27.2.1997 will stand and hold good and the appellate authority may pass appropriate orders accordingly. The petitioners herein have no objection to

such a course of action being followed. All these four Special Civil Applications are therefore partly allowed in the terms as aforesaid and the Rule is made absolute accordingly. No order as to costs.

(M.R. Calla, J.)

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Sreeram.